

Office of the Secretary of Labor

§ 18.85

party makes the certifications described in § 18.50(d).

§ 18.81 Formal hearing.

(a) *Public.* Hearings are open to the public. But, when authorized by law and only to the minimum extent necessary, the judge may order a hearing or any part of a hearing closed to the public, including anticipated witnesses. The order closing all or part of the hearing must state findings and explain why the reasons for closure outweigh the presumption of public access. The order and any objection must be part of the record.

(b) *Taking testimony.* Unless a closure order is issued under paragraph (a) of this section, the witnesses' testimony must be taken in an open hearing. For good cause and with appropriate safeguards, the judge may permit testimony in an open hearing by contemporaneous transmission from a different location.

(c) *Party participation.* For good cause and with appropriate safeguards, the judge may permit a party to participate in an open hearing by contemporaneous transmission from a different location.

§ 18.82 Exhibits.

(a) *Identification.* All exhibits offered in evidence must be marked with a designation identifying the party offering the exhibit and must be numbered and paginated as the judge orders.

(b) *Electronic data.* By order the judge may prescribe the format for the submission of data that is in electronic form.

(c) *Exchange of exhibits.* When written exhibits are offered in evidence, one copy must be furnished to the judge and to each of the parties at the hearing, unless copies were previously furnished with the list of proposed exhibits or the judge directs otherwise. If the judge does not fix a date for the exchange of exhibits, the parties must exchange copies of exhibits at the earliest practicable time before the hearing begins.

(d) *Authenticity.* The authenticity of a document identified in a pre-hearing exhibit list is admitted unless a party files a written objection to authenticity at least 7 days before the hear-

ing. The judge may permit a party to challenge a document's authenticity if the party establishes good cause for its failure to file a timely written objection.

(e) *Substitution of copies for original exhibits.* The judge may permit a party to withdraw original documents offered in evidence and substitute accurate copies of the originals.

(f) *Designation of parts of documents.* When only a portion of a document contains relevant matter, the offering party must exclude the irrelevant parts to the greatest extent practicable.

(g) *Records in other proceedings.* Portions of the record of other administrative proceedings, civil actions or criminal prosecutions may be received in evidence, when the offering party shows the copies are accurate.

§ 18.83 Stipulations.

(a) The parties may stipulate to any facts in writing at any stage of the proceeding or orally on the record at a deposition or at a hearing. These stipulations bind the parties unless the judge disapproves them.

(b) Every stipulation that requests or requires a judge's action must be written and signed by all affected parties or their representatives. Any stipulation to extend time must state the reason for the date change.

(c) A proposed form of order may be submitted with the stipulation; it may consist of an endorsement on the stipulation of the words, "Pursuant to stipulation, it is so ordered," with spaces designated for the date and the signature of the judge.

§ 18.84 Official notice.

On motion of a party or on the judge's own, official notice may be taken of any adjudicative fact or other matter subject to judicial notice. The parties must be given an adequate opportunity to show the contrary of the matter noticed.

§ 18.85 Privileged, sensitive, or classified material.

(a) *Exclusion.* On motion of any interested person or the judge's own, the judge may limit the introduction of material into the record or issue orders to protect against undue disclosure of